

terminated on a separate return basis and their tax liabilities based on their contributions to the consolidated taxable income.

(4) The tax liability of the group shall be allocated in accord with any other method selected by the group with the approval of the Secretary.

(b) Failure to elect

If no election is made in such first return, the tax liability shall be allocated among the several members of the group pursuant to the method prescribed in subsection (a)(1).

(Aug. 16, 1954, ch. 736, 68A Stat. 371; Pub. L. 88-272, title II, §234(b)(8), Feb. 26, 1964, 78 Stat. 116; Pub. L. 94-455, title XIX, §§1901(a)(159), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1790, 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, §§1901(a)(159), 1906(b)(13)(A), struck out “beginning after December 31, 1953, and ending after the date of enactment of this title” after “group filed for a taxable year”, and “or his delegate” after “Secretary” in two places.

1964—Subsec. (a)(3). Pub. L. 88-272 struck out “(determined without regard to the 2 percent increase provided by section 1503(a))”, before “based on their contributions”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(159) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years beginning after Dec. 31, 1963, see section 234(c) of Pub. L. 88-272, set out as a note under section 1503 of this title.

PART II—CERTAIN CONTROLLED CORPORATIONS

Sec.	
1561.	Limitations on certain multiple tax benefits in the case of certain controlled corporations.
[1562.	Repealed.]
1563.	Definitions and special rules.
[1564.	Repealed.]

AMENDMENTS

1990—Pub. L. 101-508, title XI, §11801(b)(12), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 1564 “Transitional rules in the case of certain controlled corporations”.

1969—Pub. L. 91-172, title IV, §401(a)(3), (b)(2)(E), Dec. 30, 1969, 83 Stat. 600, 602, substituted “Sec. 1561. Limitations on certain multiple tax benefits in the case of certain controlled corporations.” for “Sec. 1561. Surtax exemptions in case of certain controlled corporations.”, and struck out item 1562, effective with respect to taxable years beginning after Dec. 31, 1974, and added item 1564.

1964—Pub. L. 88-272, title II, §235(a), Feb. 26, 1964, 78 Stat. 116, added designation of part II, and items 1561 to 1563.

§ 1561. Limitations on certain multiple tax benefits in the case of certain controlled corporations

(a) General rule

The component members of a controlled group of corporations on a December 31 shall, for their

taxable years which include such December 31, be limited for purposes of this subtitle to—

(1) amounts in each taxable income bracket in the tax table in section 11(b)(1) which do not aggregate more than the maximum amount in such bracket to which a corporation which is not a component member of a controlled group is entitled,

(2) one \$250,000 (\$150,000 if any component member is a corporation described in section 535(c)(2)(B)) amount for purposes of computing the accumulated earnings credit under section 535(c)(2) and (3),

(3) one \$40,000 exemption amount for purposes of computing the amount of the minimum tax, and

(4) one \$2,000,000 amount for purposes of computing the tax imposed by section 59A.

The amounts specified in paragraph (1), the amount specified in paragraph (3), and the amount specified in paragraph (4) shall be divided equally among the component members of such group on such December 31 unless all of such component members consent (at such time and in such manner as the Secretary shall by regulations prescribe) to an apportionment plan providing for an unequal allocation of such amounts. The amounts specified in paragraph (2) shall be divided equally among the component members of such group on such December 31 unless the Secretary prescribes regulations permitting an unequal allocation of such amounts. Notwithstanding paragraph (1), in applying the last 2 sentences of section 11(b)(1) to such component members, the taxable income of all such component members shall be taken into account and any increase in tax under such last 2 sentences shall be divided among such component members in the same manner as amounts under paragraph (1). In applying section 55(d)(3), the alternative minimum taxable income of all component members shall be taken into account and any decrease in the exemption amount shall be allocated to the component members in the same manner as under paragraph (3).

(b) Certain short taxable years

If a corporation has a short taxable year which does not include a December 31 and is a component member of a controlled group of corporations with respect to such taxable year, then for purposes of this subtitle—

(1) the amount in each taxable income bracket in the tax table in section 11(b), and

(2) the amount to be used in computing the accumulated earnings credit under section 535(c)(2) and (3),

of such corporation for such taxable year shall be the amount specified in subsection (a)(1) or (2), as the case may be, divided by the number of corporations which are component members of such group on the last day of such taxable year. For purposes of the preceding sentence, section 1563(b) shall be applied as if such last day were substituted for December 31.

(Added Pub. L. 88-272, title II, §235(a), Feb. 26, 1964, 78 Stat. 116; amended Pub. L. 91-172, title IV, §401(a)(1), Dec. 30, 1969, 83 Stat. 599; Pub. L. 94-12, title III, §§303(c)(1), 304(b), Mar. 29, 1975, 89 Stat. 44, 45; Pub. L. 94-164, §4(d)(1), Dec. 23, 1975,

89 Stat. 974; Pub. L. 94-455, title IX, §901(c)(1), title XIX, §§1901(b)(1)(J)(v), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1607, 1791, 1834; Pub. L. 95-600, title III, §301(b)(19), title VII, §703(j)(7), Nov. 6, 1978, 92 Stat. 2823, 2941; Pub. L. 97-34, title II, §232(b)(3), Aug. 13, 1981, 95 Stat. 250; Pub. L. 97-248, title II, §259(b), (c), Sept. 3, 1982, 96 Stat. 539; Pub. L. 98-369, div. A, title I, §66(b), title II, §211(b)(21), July 18, 1984, 98 Stat. 585, 756; Pub. L. 99-499, title V, §516(b)(3), Oct. 17, 1986, 100 Stat. 1771; Pub. L. 99-514, title VII, §701(e)(2), Oct. 22, 1986, 100 Stat. 2342; Pub. L. 100-647, title II, §2004(I), Nov. 10, 1988, 102 Stat. 3606; Pub. L. 104-188, title I, §1703(f), Aug. 20, 1996, 110 Stat. 1876.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-188 in closing provisions substituted “last 2 sentences” for “last sentence” in two places.

1988—Subsec. (a). Pub. L. 100-647 substituted “section 11(b)(1)” for “section 11(b)” in par. (1) and in penultimate sentence.

1986—Subsec. (a). Pub. L. 99-514 added par. (3), and in concluding provisions, substituted “amounts specified in paragraph (1) (and the amount specified in paragraph (3))” for “amounts specified in paragraph (1)” and inserted “In applying section 55(d)(3), the alternative minimum taxable income of all component members shall be taken into account and any decrease in the exemption amount shall be allocated to the component members in the same manner as under paragraph (3).”

Pub. L. 99-499, in subsec. (a) as amended by Pub. L. 99-514 above, added par. (4), and in concluding provisions substituted “, the amount specified in paragraph (3), and the amount specified in paragraph (4)” for “(and the amount specified in paragraph (3))”.

1984—Subsec. (a). Pub. L. 98-369, §211(b)(21)(A), inserted “and” at end of par. (1), substituted a period for the comma at end of par. (2), struck out par. (3) which read as follows: “one \$25,000 amount for purposes of computing the limitation on the small business deduction of life insurance companies under sections 804(a)(3) and 809(d)(10), and”, struck out par. (4) which read as follows: “one \$1,000,000 amount (adjusted as provided in section 809(f)(3) for purposes of computing the limitation under paragraph (1) or (2) of section 809(f).”, and substituted “paragraph (2)” for “paragraphs (2), (3), and (4)” in concluding provisions.

Pub. L. 98-369, §66(b), inserted provision that notwithstanding paragraph (1), in applying last sentence of section 11(b) to such component members, the taxable income of all such component members shall be taken into account and any increase in tax under the last sentence shall be divided among such component members in the same manner as amounts under paragraph (1).

Subsec. (b). Pub. L. 98-369, §211(b)(21)(B), inserted “and” at end of par. (1), struck out par. (3) which read as follows: “the amount to be used in computing the limitation on the small business deduction of life insurance companies under sections 804(a)(3) and 809(d)(10), and”, struck out par. (4) which read as follows: “the amount (adjusted as provided in section 809(f)(3)) to be used in computing the limitation under paragraph (1) or (2) of section 809(f).”, and substituted “or (2)” for “, (2), (3), or (4)” in concluding provisions.

1982—Subsec. (a). Pub. L. 97-248, §259(b), added par. (4) and inserted reference to par. (4) in text following par. (4).

Subsec. (b). Pub. L. 97-248, §259(c), added par. (4) and inserted reference to subsec. (a)(4) in text following par. (4).

1981—Subsec. (a)(2). Pub. L. 97-34 substituted “\$250,000 (\$150,000 if any component member is a corporation described in section 535(c)(2)(B))” for “\$150,000”.

1978—Subsec. (a). Pub. L. 95-600, §301(b)(19)(A), in par. (1) substituted “amounts in each taxable income bracket in the tax table in section 11(b) which do not aggregate more than the maximum amount in such bracket

to which a corporation is not a component member of a controlled group is entitled” for “the surtax exemption under section 11(d)” and in provisions following par. (3) substituted “amounts” for “amount” in two places and struck out provision that in applying section 11(b)(2), the first \$25,000 of taxable income and the second \$25,000 of taxable income each be allocated among the component members of a controlled group of corporations in the same manner as the surtax exemption is allocated.

Subsec. (b)(1). Pub. L. 95-600, §301(b)(19)(B), substituted “the amount in each taxable income bracket in the tax table in section 11(b)” for “the surtax exemption under section 11(d)”.

Subsec. (b)(3). Pub. L. 95-600, §703(j)(7), substituted “804(a)(3)” for “804(a)(4)”.

1976—Subsec. (a). Pub. L. 94-455, §901(c)(1), 1906(b)(13)(A), inserted “In applying section 11(b)(2), the first \$25,000 of taxable income and the second \$25,000 of taxable income shall each be allocated among the component members of a controlled group of corporations in the same manner as the surtax exemption is allocated” after “unequal allocation of such amounts” and struck out “or his delegate” after “Secretary” in two places.

Subsec. (a)(3). Pub. L. 94-455, §1901(b)(1)(J)(v), substituted “804(a)(3)” for “804(a)(4)” after “under sections”.

1975—Subsec. (a)(1). Pub. L. 94-164 struck out “\$25,000” in par. (1) as par. (1) is in effect for taxable years ending after Dec. 31, 1975.

Pub. L. 94-12, §303(c)(1), substituted “\$50,000” for “\$25,000”.

Subsec. (a)(2). Pub. L. 94-12, §304(b), substituted “\$150,000” for “\$100,000”.

1969—Pub. L. 91-172 provided, with respect to taxable years beginning after Dec. 31, 1974, that a controlled group of corporations is limited to one \$25,000 surtax exemption under section 11(d), one \$100,000 amount for purposes of computing the accumulated earnings credit under section 535(c)(2) and (3), and one \$25,000 amount for purposes of computing the limitation on the small business deduction of life insurance companies under sections 804(a)(4) and 809(d)(10).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103-66, §§13001-13444, to which such amendment relates, see section 1703(o) of Pub. L. 104-188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain exceptions and qualifications, see section 701(f) of Pub. L. 99-514, set out as an Effective Date note under section 55 of this title.

Amendment by Pub. L. 99-499 applicable to taxable years beginning after Dec. 31, 1986, see section 516(c) of Pub. L. 99-499, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 66(b) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 66(c) of Pub. L. 98-369, set out as a note under section 11 of this title.

Amendment by section 211(b)(21) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

EFFECTIVE AND TERMINATION DATE OF 1982 AMENDMENT

Section 263(a)(1) of Pub. L. 97-248 provided that the amendment made by section 259(b), (c) of Pub. L. 97-248 is applicable to taxable years beginning after Dec. 31, 1981, and before Jan. 1, 1984.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 232(c) of Pub. L. 97-34, set out as a note under section 535 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 301(b)(19) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

Amendment by section 703(j)(7) of Pub. L. 95-600 effective on Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

EFFECTIVE DATES OF 1976 AMENDMENT

Amendment by section 901(c)(1) of Pub. L. 94-455 applicable to taxable years ending after Dec. 31, 1975, see section 901(d) of Pub. L. 94-455, set out as a note under section 11 of this title.

Amendment by section 1901(b)(1)(J)(v) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

EFFECTIVE AND TERMINATION DATES OF 1975 AMENDMENTS

Amendment by Pub. L. 94-164 applicable to taxable years beginning after Dec. 31, 1975, see section 4(e) of Pub. L. 94-164, set out as a note under section 11 of this title.

Amendment by section 303(c)(1) of Pub. L. 94-12 applicable to taxable years ending after Dec. 31, 1974, but to cease to apply for taxable years ending after Dec. 31, 1975, see section 305(b)(1) of Pub. L. 94-12, set out as a note under section 11 of this title.

Amendment by section 304(b) of Pub. L. 94-12 applicable to taxable years beginning after Dec. 31, 1974, see section 305(c) of Pub. L. 94-12, set out as an Effective Date of 1975 Amendment note under section 535 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 401(h) of Pub. L. 91-172 provided that:“(1) The amendments made by subsection (a) [amending this section and repealing section 1562 of this title] shall apply with respect to taxable years beginning after December 31, 1974.

“(2) The amendments made by subsection (b) [enacting section 1564 and amending sections 11, 535, 804, and 1562] shall apply with respect to taxable years beginning after December 31, 1969.

“(3) The amendments made by subsections (c), (d), (e), and (f) [amending sections 46, 48, 179, and 1563] shall apply with respect to taxable years ending on or after December 31, 1970.”

EFFECTIVE DATE

Section applicable with respect to taxable years ending after Dec. 31, 1963, see section 235(d) of Pub. L. 88-272, set out as an Effective Date of 1964 Amendment note under section 1551 of this title.

APPLICABILITY OF CERTAIN AMENDMENTS BY PUB. L. 99-514 IN RELATION TO TREATY OBLIGATIONS OF UNITED STATES

For applicability of amendment by section 701(e)(2) of Pub. L. 99-514 notwithstanding any treaty obligation of the United States in effect on Oct. 22, 1986, see section 1012(aa)(2) of Pub. L. 100-647, set out as a note under section 861 of this title.

[§ 1562. Repealed. Pub. L. 91-172, title IV, § 401(a)(2), Dec. 30, 1969, 83 Stat. 600]

Section, added Pub. L. 88-272, title II, § 235(a), Feb. 26, 1964, 78 Stat. 117, amended Pub. L. 91-172, title IV, § 401(b)(2)(A), Dec. 30, 1969, 83 Stat. 602, set limits on the privilege of groups to elect multiple surtax exemptions.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to taxable years beginning after Dec. 31, 1974, see section 401(h)(1) of Pub. L. 91-172, set out as an Effective Date of 1969 Amendment note under section 1561 of this title.

RETROACTIVE TERMINATION OF ELECTIONS

Section 401(g) of Pub. L. 91-172 authorized an affiliated group of corporations making a consolidated return for the taxable year which included Dec. 31, 1970, to terminate the election under section 1562 of this title with respect to any prior Dec. 31 which was included in a taxable year of any such corporations from which there was a net operating loss carryover to the 1970 consolidated return year and provided that the termination of such election was to be valid only if in accord with subsections (c)(1) and (e) of section 1562 of this title other than the requirement of making the termination prior to the expiration of the 3 year period specified in subsection (e) of section 1562 of this title.

§ 1563. Definitions and special rules**(a) Controlled group of corporations**

For purposes of this part, the term “controlled group of corporations” means any group of—

(1) Parent-subsidiary controlled group

One or more chains of corporations connected through stock ownership with a common parent corporation if—

(A) stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned (within the meaning of subsection (d)(1)) by one or more of the other corporations; and

(B) the common parent corporation owns (within the meaning of subsection (d)(1)) stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing such voting power or value, stock owned directly by such other corporations.

(2) Brother-sister controlled group

Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2)) stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

(3) Combined group

Three or more corporations each of which is a member of a group of corporations described in paragraph (1) or (2), and one of which—